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HAROLD CRAIG MANSON NOMINATION

HEARING BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF HAROLD CRAIG MANSON TO BE ASSISTANT SECRETARY FOR FISH, WILDLIFE, AND PARKS, DEPARTMENT OF THE INTERIOR

OCTOBER 3, 2001



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CONTENTS

STATEMENTS

	Page
Bingaman, Hon. Jeff, U.S. Senator from New Mexico	1
Craig, Hon. Larry E., U.S. Senator from Idaho	11
Domenici, Hon. Pete V., U.S. Senator from New Mexico	1
Manson, Harold Craig, Nominee to be Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior	3
Murkowski, Hon. Frank H., U.S. Senator from Alaska	1
Thomas, Hon. Craig, U.S. Senator from Wyoming	10

APPENDIXES

APPENDIX I

Responses to additional questions	15
---	----

APPENDIX II

Additional material submitted for the record	17
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HAROLD CRAIG MANSON NOMINATION

WEDNESDAY, OCTOBER 3, 2001

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. The committee will come to order. This morning's hearing is on President Bush's nomination of Judge Harold Manson to be the Assistant Secretary for Fish, Wildlife, and Parks. Without objection, Judge Manson's written statement will be entered into the record.

Let me defer to Senator Murkowski to make any opening statement he would like to make.

[A prepared statement from Senator Domenici follows:]

PREPARED STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

Mr. Chairman, I appreciate your calling this hearing today and your continuing efforts to fill the ranks at the Interior Department. I am confident that Secretary Norton is also appreciative to have other aides confirmed.

Mr. Chairman, we have an excellent nominee before the Committee today. He has exceptional records in both the private sector and in public service.

For example, Harold Manson has served on the Superior Court of California since 1998. Before his judicial tenure, he served as general counsel to the California Department of Fish and Game, as well as a private attorney, a professor, and an Air Force Colonel. At the Department of Fish and Game, Judge Manson gained expertise in wildlife and endangered species issues and in water and environmental law.

I look forward to working with Judge Manson on the many wildlife issues that affect my home state of New Mexico. For example, for the past few years, I have been working with the Department on the issue of the silvery minnow. We have made great progress in balancing the need to protect this endangered species with the need to protect New Mexican communities who depend on the Rio Grande water for their survival.

I applaud President Bush's nomination of Judge Manson, and I look forward to working with him on this and many other issues important to New Mexico.

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Good morning, Judge. We look forward to hearing your statement. You certainly are a qualified nominee and I hope that we can act on this nomination expeditiously. Your career, including General Counsel for California's Department of Fish

and Game under a former Senator, Governor Wilson, given the difficult issues in California, and for that matter along the entire Pacific coast and lower Colorado, gives evidence to your ability to contribute to Secretary Norton.

Hopefully, we will see nominations for the Assistant Secretary for Lands and Minerals and for the Department or the Bureau of Land Management shortly, to start to fill out the vacancies of the Department of the Interior. I also hope that we can move to the nomination of Jeffrey Jarrett shortly, as well as some anticipated nominations which I understand are coming from the Department of Energy.

I would note that, in addition to your writings on the Endangered Species Act and California statutes, you have also written and lectured on space law and aliens. That is quite a spread. I do not know if that will serve you well in the Department, but it probably will not hurt. You can set a division of who are the space aliens and who are the folks from space.

But in any event, I will not prolong that line very much further, other than to wish you well.

The CHAIRMAN. Judge, the rules of the committee which apply to all nominees require that nominees be sworn in connection with their testimony. Would you please stand and raise your right hand.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give to the Senate Committee on Energy and Natural Resources will be the truth, the whole truth, and nothing but the truth?

Mr. MANSON. I do.

The CHAIRMAN. Please be seated.

Before you begin your statement, I am to ask three questions that we address to each nominee before the committee. The first is: Will you be available to appear before this committee and other Congressional committees to represent departmental positions and to respond to issues of concern to the Congress?

Mr. MANSON. Yes, I will.

The CHAIRMAN. Second question: Are you aware of any personal holdings, investments, or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. MANSON. Senator, my investments and personal holdings and other interests have been reviewed by myself as well as the appropriate ethics counselors within the government and I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interest or appearances thereof to the best of my knowledge.

The CHAIRMAN. All right. The third question: Are you involved or do you have any assets that are held in blind trust?

Mr. MANSON. No.

The CHAIRMAN. At this point let me invite you, if you have anyone here you would like to introduce who accompanied you, we'd be glad to have that occur. Then we would recognize you for your opening statement. Go right ahead.

Mr. MANSON. Senator, my wife Penny wanted to be here today. She has some work-related commitments in Sacramento, so she's

remaining there, although she understands that this hearing may be on the Internet and she's interested in following it through that method.

The CHAIRMAN. Well, good. If she's on the Internet, we wish her well.

Why don't you go ahead with any opening statement that you have at this point.

TESTIMONY OF HAROLD CRAIG MANSON, NOMINEE TO BE ASSISTANT SECRETARY FOR FISH, WILDLIFE, AND PARKS, DEPARTMENT OF THE INTERIOR

Mr. MANSON. All right. Mr. Chairman, Senator Murkowski and members of the committee: I am very deeply honored and humbled to be here as the President's nominee to be Assistant Secretary for Fish, Wildlife, and Parks, and I'm very grateful for the confidence that the President and Secretary Norton have invested in me. And I also would like to thank Secretary of Agriculture Ann Veneman for her support.

I want to mention that I'm grateful that the committee has taken time during a period of national crisis to hold this hearing. Of particular interest to me and to the committee, I hope, is the fact that we lost a U.S. Fish and Wildlife Service employee, Richard Guadagno, in the crash of the jet in Pennsylvania. He was the manager of the Humboldt Bay National Wildlife Refuge in California. He was a native of New Jersey and highly regarded by everyone who knew him. So I would ask that your prayers be with his family, as I know they are with all the families affected.

I was born in Missouri, grew up in New Mexico and California, have spent most of the last 47 years in the Western United States, living in Arizona, Colorado, South Dakota, and having visited for recreation purposes Wyoming and Oregon and Montana and other Western States. I'm a graduate of the U.S. Air Force Academy and received my law degree from the University of the Pacific McGeorge School of Law in Sacramento, and served for a number of years on active duty in the U.S. Air Force.

After I left the Air Force, I practiced law in Sacramento, and following that experience, as Senator Murkowski mentioned, Governor Wilson appointed me to be the General Counsel of the California Department of Fish and Game. I served in that position for 5 years, until Governor Wilson appointed me to the bench. I've been a judge since 1998.

I'm also a professor of law at McGeorge School of Law in Sacramento and I continue to serve in the Air National Guard with the rank of colonel.

I want the committee to know that I have extreme enthusiasm for the position to which the President has nominated me. I think I bring my experience in natural resources issues, a judicial approach, and an ability to build consensus across diverse groups.

I want to mention some things in my tenure in California which I think illustrate that approach. We conserved hundreds of thousands of acres of wildlife habitat in the coastal sage scrub habitat in southern California. That's a habitat where California's most intensive growth and development pressures exist, and the program that we established was a multi-species program. It had the sup-

port of landowners, environmental groups, State and local governments, as well as the U.S. Fish and Wildlife Service.

In addition to that, we also conserved hundreds of thousands of acres in our State version of habitat conservation plans. The key and essential fact about that was that each of these were based upon sound science and had the support of landowners as well. It was a cooperative effort.

Additionally, the fact of which I am most proud in my public service occurred in 1997, when Governor Wilson signed into law revisions to the California Endangered Species Act. I'm proud of that because the Governor had entrusted me with the administration's negotiating portfolio on that and we spent 4 years building a consensus among landowners, local governments, agricultural interests, and environmental groups, and our legislation was passed on a bipartisan basis.

It introduced the concepts of landowner incentives and requirements for effective species recovery programs. It also provided for voluntary, locally designed programs to conserve habitat while allowing agricultural activities to proceed without the counter-productive effects of a strict regulatory approach.

I mention these California experiences to illustrate my commitment to work through natural resources issues on a consensus basis. I'm completely committed to what Secretary Norton has described as the four C's: communication, consultation, and cooperation, all in the service of conservation.

If I'm confirmed, I will also apply my judicial experience to issues involving natural resources, and that means two things: first, every interested party will get a fair hearing. That means environmental interest groups, landowners, farmers, ranchers, historic preservation interests, State and local governments, and resources and recreational user groups.

Second, any decisions that I make or recommendations that I give to the Secretary will be based upon the weight of the evidence, and I agree with the President's view and Secretary Norton's view that these public policies must be informed by sound science.

This committee voted last summer to confirm the appointment of Frank Mainella as Director of the National Park Service. I've had the chance to spend some time with Director Mainella and she's doing an outstanding job, and I look very much forward to working with her if I'm confirmed.

The President has also nominated Steve Williams of Kansas to be the Director of the U.S. Fish and Wildlife Service. Dr. Williams is the Secretary of Wildlife and Parks in the State of Kansas. I've spent some time with him. He's an outstanding professional in the field of natural resources management who will be an asset to the Department of the Interior if he is confirmed.

Mr. Chairman, I love this great country and the physical resources that we've been blessed with and I will do my best if I am confirmed to see that these resources remain a perpetual source of enjoyment for the American people, and I'd be glad to answer any questions that the committee may have.

[The prepared statement of Judge Manson follows:]

PREPARED STATEMENT OF HAROLD CRAIG MANSON, NOMINEE TO BE ASSISTANT
SECRETARY FOR FISH, WILDLIFE, AND PARKS, DEPARTMENT OF THE INTERIOR

Mr. Chairman, Senator Murkowski, Members of the Committee, I am honored and humbled to appear before you as the President's nominee to be Assistant Secretary of the Interior for Fish, Wildlife and Parks, seeking your confirmation vote. I am deeply grateful for the confidence in me shown by the President and Secretary Norton. I also thank Secretary of Agriculture Ann Veneman for her support.

I appreciate that the committee has taken time to hold this hearing in a time of great national crisis. As you know, the Department of the Interior's personnel, including the U.S. Park Police and the law enforcement elements of the U.S. Fish and Wildlife Service and others have played vital roles in responding to the current crisis. Most regrettably, a U.S. Fish and Wildlife Service employee, Richard Guadagno, lost his life in the crash of the jet in Pennsylvania. Mr. Guadagno was the refuge manager of the Humboldt Bay National Wildlife Refuge in my home state of California. He was highly regarded by all who knew him and he embodied the very best attributes of the talented people in both the Fish and Wildlife Service and the National Park Service. I ask that your prayers be with his family as they are with all the families affected by this great tragedy.

As an American, I am a descendant of Africans, Europeans, and Native Americans. Born in Missouri, I grew up principally in New Mexico and California, where I now reside. I've spent 42 of the last 47 years living in the western United States, including, in addition to New Mexico and California, Arizona, Colorado, and South Dakota. I've had the great pleasure of visiting other western states for recreation, including Oregon, Wyoming, and Montana.

I received my undergraduate education at the United States Air Force Academy. Following my graduation from the Academy, I served two years as a Minuteman missile launch officer. The Air Force then sent me to law school and I received my law degree at the University of the Pacific, McGeorge School of Law in Sacramento. I served in various Air Force judge advocate assignments in the U.S. and overseas, including four years on the Air Force Academy faculty, in the Department of Law. During my faculty tour, I was assigned, with several other faculty members, to report to the Secretary of the Air Force concerning the state of Air Force compliance with environmental laws on its overseas bases.

After leaving active duty in 1989, I practiced law with a major Sacramento law firm for three years. I was then appointed by California Governor Pete Wilson to the newly created position of General Counsel of the California Department of Fish and Game. I held that position for five years, after which the Governor appointed me to be a judge. I have served on the Superior Court in Sacramento since 1998. I've also been on the faculty of McGeorge School of Law since 1992. I continue my military service in the Air National Guard, with the current rank of colonel.

Apart from unmitigated enthusiasm for I what think is the best job in Washington, I offer my experience in natural resources law and policy, an ability to build consensus across diverse interest groups, and a judicial approach to decision-making.

During my tenure with California's Department of Fish and Game, we conserved hundreds of thousands of acres of wildlife habitat in an innovative multiple species planning program in Southern California's coastal sage scrub habitat. That habitat, home to hundreds of potentially at-risk plant and animal species, stretches across the five counties in which California's most intensive growth and development pressures exist. Our natural communities conservation program had bipartisan support as well as the support of landowners, resource users, local governments and environmental interest groups. The U.S. Fish and Wildlife Service also was a partner.

In addition to our large scale multiple species plans, during my tenure at California Fish and Game, we pioneered habitat conservation plans, HCPs, using our state Endangered Species Act. At one point during the 1990's, we had more HCPs in the state of California under state law than existed in the entire rest of the country under federal law. Each of our state HCPs was based on the scientific judgments of our biologists and involved the cooperation of landowners. Again, hundreds of thousands of acres of habitat were conserved while allowing economic activities to proceed.

In all of my public service, I have had no prouder moment than in 1997 when Governor Pete Wilson signed into law amendments to the California Endangered Species Act. I had been entrusted with the Wilson administration's negotiating portfolio on that legislation. We worked diligently for four years to build a consensus among environmental groups, landowners, local governments, and agricultural interests. We listened to everybody. Eventually, our legislation, conceived by a Republican administration, was introduced by three Democratic state legislators and won

bipartisan passage. The legislation placed into the California Endangered Species Act the concepts of landowner incentives and requirements for effective species recovery programs. The legislation also provided for voluntary, locally designed programs to conserve habitat while allowing agricultural activities to proceed without the counterproductive effects of a strict regulatory approach.

I mention my experiences in California to illustrate my commitment to work through environmental and natural resource public policy issues on a consensus basis whenever possible. In that regard, I am completely committed to what Secretary Norton describes as the "4 C's": communication, consultation, and cooperation, all in the service of conservation. I strongly support Secretary Norton's philosophy that the federal government must be a partner to state and local governments, individuals and nongovernmental organizations affected by or interested in natural resource policy.

If I am confirmed, I will also apply my judicial experience to the issues involving our national parks and natural resources. First, every interested party will get a fair hearing: environmental interest groups, landowners, historic preservation interests, state and local government, and recreational user groups. Second, any decisions I make or recommendations I give to the Secretary will be based on the weight of the evidence. I agree with the view expressed by both the President and Secretary Norton that our natural resources public policies must be informed by sound science.

There are a number of important issues facing our National Park System. One of the significant issues is the backlog of deferred maintenance projects. I support the President's initiative to eliminate this backlog over the next five years.

This committee last summer voted to confirm the appointment of Fran Mainella as Director of the National Park Service. I have had the opportunity to spend some time with Director Mainella and she is doing an outstanding job. Working with her is something I most look forward to, if I am confirmed. The President has also nominated Steve Williams to be Director of the U.S. Fish and Wildlife Service. Dr. Williams is the director of wildlife and parks in the state of Kansas. I've also spent time with him. He is an outstanding professional in the field of natural resources management who will be an asset to the Department if he is confirmed.

I also look forward to, if I am confirmed, the opportunity to work with the talented and dedicated field employees of the National Park Service and the U.S. Fish and Wildlife Service. I have great respect for these professionals who ensure the preservation of America's greatest treasures every day.

Mr. Chairman, I love our great country and the physical resources with which we have been blessed. If confirmed, I will do my best to see that our resources remain a perpetual source of enjoyment for the American people.

I'll be pleased to answer any questions.

The CHAIRMAN. Thank you very much for that statement. Let me ask a few questions, and I'm sure the other members here will also have questions.

The National Park Service Organic Act of 1916 provides that the purpose of the national parks is "to conserve park resources while providing for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." One of the major management challenges of the Park Service has been to properly balance those two legislative mandates, the mandate of conservation and the mandate of recreation.

The current Park Service management policy interprets the Organic Act to mean that when there's a conflict between conserving park resources and values and providing for the enjoyment of those resources, conservation is to predominate. I wanted to ask if you agree with that policy that conservation of park resources is the primary mission of the National Park Service?

Mr. MANSON. Well, those two mandates on their face seem to be in conflict, but to me it's not necessary to view them as inextricably or intractably in conflict. We face this type of situation with our own personal assets. We want to conserve our personal assets, our

homes, our finances, to pass on to our children and future generations, but at the same time we have to use and enjoy them as well.

It seems to me that they are of equal importance, looking at the statute and interpreting statutorily. But in particular cases one may yield to the other, depending upon the circumstances. And I would look at every circumstance very carefully to understand that we have to achieve both of those purposes.

The CHAIRMAN. Well, let me bring it down to a specific. The Park Service has recently implemented proposals the significantly reduce or ban snowmobile use in many national parks, in particular Denali National Park and Preserve, Yellowstone, Grand Teton National Park. Do you support those proposals?

Mr. MANSON. Well, you may know that those proposals, particularly at Yellowstone, have been the subject of litigation. The litigation was recently settled at Yellowstone and the Service is preparing, the Park Service is preparing, a new environmental impact statement on that. As I said in my opening statement, I would look carefully at the weight of the scientific evidence before I would make a decision in any particular case.

If the environmental impact statement shows significant impacts that can't be mitigated, then I certainly would support measures to eliminate those impacts by regulating snowmobile use in those parks.

The CHAIRMAN. Just going back to your previous answer there, we are in agreement, I hope, that the Organic Act makes conservation of the resource the predominant mission of the park, and only to the extent that can be accomplished consistent with use and enjoyment is the use and enjoyment permitted. Is that your understanding, too?

Mr. MANSON. Well, it comes first in the statute and as a judge I would say that it takes precedence.

The CHAIRMAN. I think it not only comes first, it says "to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired," "them" being the "natural and historic objects of the parks," "will leave them unimpaired for the enjoyment of future generations."

Mr. MANSON. Right. I agree with that mandate.

The CHAIRMAN. Okay. Let me ask about the Endangered Species Act. You indicated your extensive involvement with the California Endangered Species Act. If confirmed as the Assistant Secretary, you'll be very involved, of course, with the Federal Endangered Species Act. Do you have views as to that act, any changes you think are needed in that act? Do you support it the way it now exists? What is your thought on the enforcement, your future actions in trying to enforce that act?

Mr. MANSON. Well, I did have an experience with it in my previous job in California, because we worked closely with the Fish and Wildlife Service on issues of mutual concern, and of course the State had an obligation to ensure that its activities did not violate the Federal Endangered Species Act.

I think there are a couple of things that could be done with the Federal Endangered Species Act. To the extent that there has been a lack of focus either statutorily or regulatorily or on the ground in effective species recovery programs, I think that's something

that requires attention. I think that the ultimate purpose of the act should be to recover species to the point where they can be delisted, and I would hope to have some ability to ensure that that happens, either as a practical policy or in terms of regulatory action if necessary. We've got to recover species, not just leave them on the critical care list perpetually.

The other thing that I think—another thing that I think needs to be focused on is the ability of States to be partners with the Federal Government in carrying out the mandates of the Federal Endangered Species Act. Now, there are a number of ways that can be done. Of course, section 6 of the act provides for cooperative agreements between the Federal Government and the States, and the Fish and Wildlife Service has over the years provided grants to the States for various purposes under section 6.

I would be interested in looking at section 6 and the regulations under section 6 to see what more we could do to ensure that the States are partners in recovery and enforcement under the act.

The CHAIRMAN. All right. Let me defer to Senator Murkowski for his questions.

Senator MURKOWSKI. Thank you very much.

Judge, as you undertake your new responsibility you're going to find that you're going to be exposed to a myriad of issues relative to not only the U.S. Fish and Wildlife Service, but the National Park Service as well. One that comes to mind is a report that was due from the Department of the Interior in August of this year under Public Law 106-486, which covers the cost of high altitude rescues on Denali National Park, Mount McKinley.

The issue there is that the Park Service provides a helicopter, a high endurance helicopter that costs about \$750,000 a year. The fee for climbing Denali is \$150. It's not my intent to discourage climbers by any means, but the question of whether this is a reasonable cost to be undertaken by the taxpayers of the country or there should be a more reasonable fee or an insurance program of some kind, which some countries mandate, to offset the cost of rescue.

I would suggest that, during some leisure time when you're looking at some of your hobbies, you consider looking into this matter, I think it puts an unfair burden on the taxpayer. To get geared up to do that kind of a climb is very expensive. Obviously, it isn't everybody off the street that can do it and the preparation costs a good deal. The fee is totally unreasonable in our opinion and it's a question of costs to the Department of the Interior.

There is also the danger to those who are involved in the rescue, and then behind that is a military capability which is done as part of the training. That was the rescue prior to the Park Service committing this helicopter capability.

Another issue is that you're going to be managing 54 million acres of national parks in my State of Alaska. That's more than all the rest of the National Park Service land stewardship put together. As a consequence, many of the mandates associated with activities in the park consist of the old parks, the new parks, and the park preserves. These are distinctions that Alaskans have had to live with relative to the use of those parks. It's important that policymakers understand the differences and the management scenarios.

There is an issue outstanding relative to Park Service action that was taken some time ago in the elimination of commercial and sports fishing in Glacier Bay. That's a point of agitation. The excuse the Park Service used was they didn't want any commercial activity. Yet, the cruise ship industry is a commercial activity. There was no justification based on any scientific evaluation of the inadequacy of the State of Alaska Fish and Game in managing the fisheries resources in there. So it wasn't done for conservation purposes.

It seemed to have been done as a policy of the last administration, who objected to the modest amount of commercial activity associated with commercial fisheries from the residents and the Native people in the nearby village of Hoonah and so forth. We feel this is an injustice. The State is pursuing this, and we would certainly request that you familiarize yourself with the issue.

The Park Service has even forbidden the gathering of seagull eggs, which is a traditional harvest of the Native people. It's pretty hard to understand the justification for that kind of mandatory action based on no explanation of need.

I would hope that we would have an opportunity to have you visit Alaska in the near future. The number one tourist destination in our State is Denali National Park, the number two is Glacier Bay. Glacier Bay is open about 90 days a year.

We suggest that there should be perhaps two cruise ships a day. The Park Service is very much opposed to that. There's probably not a better way to see a national park than off the deck of a cruise ship from the standpoint of the footprint. The idea of roads into that area are not realistic. Flying into the area is often difficult because of adverse weather. There is no airfield, with the exception of Gustavus, outside the park.

So my point is we feel that there are unrealistic policies mandated by the Park Service, pretty much at the whims of the Park Service and not based on any science. They'll tell you the reason is whales and so forth, but most of the whales are outside the park. That's where you go to watch the whales, at the north end of Chichigof Island. Alaskans know this, but there seems to be a mandate among some in the Park Service, not based on any logic, that somehow visitors should be discouraged to come into that park in the most practical way, which is the cruise ship.

There are 12 months of the year and there are only 3 months when the cruise ships come into that area. To suggest that 2 a day is unreasonable is not based on any science.

The last issue is relative to Denali National Park. The Park Service supports one entry into the park, the existing entry. What's happened out on the highway, unfortunately, is that it's developed into almost a strip mall. It's not very pretty, and the congestion and the disappointment of visitors who come up and can't be accommodated into the park, mandates that this six million acre park needs another entry, an entry from the north end.

We've proposed that. There has been a preliminary study done some years ago. There's going to be another review. But clearly, I think that the Park Service has an obligation to address relief and access.

I would also point out the issue of snow machines in the park and the park preserves are an issue that you're going to find crossing your desk. I hope that you will recognize the guarantees made for access relative to snow machiners who enjoy that portion of the park that is suitable for snow machining and familiarize yourself with some of the other points that I have made. These parks are among some of the crown jewels of the Park Service and they need attention.

Mr. MANSON. Senator, I have heard about some of those issues. I don't have an intimate familiarity with them. I've not yet seen the report on the rescue, but I can assure you that if I'm confirmed that I will become intimately familiar with each of the issues that you've raised.

Senator MURKOWSKI. Well, Mr. O'Toole behind me perhaps can help you, if he's still here. Thank you.

The CHAIRMAN. Senator Thomas.

**STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR
FROM WYOMING**

Senator THOMAS. Thank you, Mr. Chairman.

Welcome, Judge. Glad to have you here.

Mr. MANSON. Thank you very much.

Senator THOMAS. I look forward to you moving into this position.

One of the things that I hope will be fairly high on the agenda: We passed a bill in 1998 with respect to parks and one of the things rather specifically was the concession management aspect of it, which of course is vital to the enjoyment of visitors.

To this time, the direction set forth in that law has not been implemented by the Park Service. Indeed, all they have done is just extend the contracts and so on. We want to get those contracts being made more in a professional way. Do you have any reaction to that?

Mr. MANSON. Well, I have been informed that the Park Service is working on all of the contracts presently. I haven't had any involvement in that as of yet. It's an issue that is important to me from a personal point of view because I believe that there ought to be public-private partnerships and the ability of the private sector to contribute to the experience in the national parks under the law.

So that's something that I will take a close look at.

Senator THOMAS. I just think there needs to be—and I talked to the Parks Director just yesterday, as a matter of fact, and hopefully there'll be some movement there. We need to get a little bit of private sector expertise in there to help do something that basically is a private sector thing and so on.

Also, there are some discussions about fees, the way fees are charged, the demonstration fee program specifically, and then the various other fees that people talk about. I happen to favor the demonstration fee program, but think that there ought to be a limit on the individual fees that are charged. What's your reaction to that?

Mr. MANSON. Well, my experience thus far with the parks, my personal experience outside of this particular issue, is that the fees that I have been familiar with have been relatively reasonable. I think there is a point where it starts to detract from the ability of

people to have access to the parks. It's something that requires constant attention.

Senator THOMAS. I think 4 or 5 years ago the Fish and Wildlife Service indicated that the recovery for grizzly bears had been obtained in terms of numbers. We'd been promised last year from the Director of the Fish and Wildlife Service that would be under way. It is not under way. What we have, I think as you suggested, is more emphasis put on listing than we have on recovery.

It would seem to me that, specifically in the case of wolves and grizzly bears, there ought to be some real efforts made there to acknowledge the recovery.

Mr. MANSON. I agree that we need to look carefully at grizzly recovery and wolf recovery and ultimately with the goal of potentially de-listing. This is an area where the States definitely have a role to play. I know that Montana and Wyoming have been active in this particular area, and if I'm confirmed I would hope that we can work with those States to get to a position where ultimately both grizzlies and wolves can be de-listed.

Senator THOMAS. We've been pushing to get into the Endangered Species a provision that would require that when a listing is made there also has to be simultaneously a recovery plan.

Mr. MANSON. That was, by the way, an element of our legislative proposals in California under the State Endangered Species Act, that there be a strategy in place for recovery. That's certainly something that I have found to be worthwhile in the past.

Senator THOMAS. Just as an observation, on the upper Colorado a couple of fish that have been listed for some time, I think from 1989 until now there has been an expenditure of \$80 million on a couple of fish. Some of them are almost trash fish. It looks like there ought to be some kind of measurement in terms of when you do this how much you spend on these issues.

I happen to be one who thinks—some think any species are all equal. I happen to think that is not the case. It would be interesting if you'd take a look at that upper Colorado fish opportunity.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Craig.

STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Thank you, Mr. Chairman.

We are all looking forward to working with you in your new capacity, and the experience you bring I think is going to be extremely valuable.

Idaho, unfortunately, has a very small unit of the Park Service. We have a national monument and, although it has been expanded greatly in the last year and a half by the former President and out of that expansion has created some interesting conflicts of management between the BLM and the Park Service, I think we can probably work those out, and we'll look forward to working with you to resolve some of them.

But Idaho is in a state of crisis, and it is in a state of crisis as a product of the Endangered Species Act. A former colleague of mine who is now Governor of our State, who served as chairman

of a subcommittee here for a good many years trying to reform the Endangered Species Act, found out that the past administration was really very unwilling to do that, and I think that my colleague from Wyoming has said it well: They are more intent on listing and using it as a tool to stop human activity on our public lands than to develop cooperative relationships that would allow both a recovery of a species and then the human species the continue to prosper and flourish.

States like California, Idaho, Wyoming, Alaska, New Mexico that are dominantly public lands States, find some very real conflicts. That former colleague, the current Governor of Idaho, Dirk Kempthorne, has set up an endangered species office within the State, not unlike I think the experience you've had in California, to try to resolve some of these conflicts.

One that is now raging in our State is the wolf conflict. The past administration and the former Secretary of the Interior, at the direct objection of the State and its citizens and the congressional delegation, planted wolves in Idaho. Of course, in that environment there is no predator to control the predator, and that wolf is populating at a very rapid rate.

It is now taking domestic livestock in ever-increasing numbers, and it appears within its range and its pack areas to be taking an unprecedented amount of wildlife. Our elk herds no longer have calves in that area, our deer herds no longer have fawns.

It is really an issue that cries out for de-listing. I believe the test the U.S. Fish and Wildlife Service has established there is a super-test, if you will: a certain number of packs within the State of Wyoming, Montana, and Idaho within that range, that really I think goes beyond that. At that point they say we could de-list, the State could come in and participate in the management, and the State would like to do that.

The great tragedy there, and I've watched it in the eyes of the human species that lives there, is that there was great anger when those wolves were first placed there. Then out of that grew frustration as they began to see the take of the wildlife. Now wolves are very visible. On the outskirts of communities, they're killing the domestic dogs, and people now feel threatened and therefore grow fearful.

Mothers no longer allow their kids to walk a mile from the ranch house out to catch the local school bus. They drive them out there, and on the rack of the pickup is the 30.06 with a scope on it. They're going to protect their kids against the wolves.

That should not be the Federal Government at work, but it is, and they are ignoring a local population that grows increasingly angry. The tragedy of that, as you can well, I would guess, expect, is that when that happens the very species we allowed to be placed there is now at risk at an ever-higher number, and it will be at risk in a silent, quiet way as the citizens of that area feel they have to defend themselves and their property against something that the Federal Government will not control, or at least argues a kind of control that doesn't seem to be compatible. That's one area of the State.

The other area of the State that I think you would find uniquely interesting is—the area I just spoke of is the south-central area of

the State. The other area is right up against the Canadian border, a county that was historically a logging, mining county and an agricultural county, still remains a beautiful county with abundant forests. It's in a high moisture area, nearly a rain forest type environment, right up against the Canadian border.

There we have—and my staff and I were just counting, and I think we have one, two, three, four, five, six or seven species listed. We have bull trout, we have sturgeon in the Kootenai River, we have a burbot, which is a new fish just listed as at risk or threatened, we have bears, wolves, lynx, and caribou.

All of those management areas overlap each other and are in conflict with each other, and if you step out of one into another there's a whole new prescription of what you can or cannot do, and the end result is that county's just literally been economically shut down. It is now at risk, its communities are faltering, industries that should still remain robust there. And one of those ought to be the forest products industry. Up in that country they grow trees, unlike the inner Great Basin area of the West that is a good deal dryer, and they farm well there. It's a unique kind of microclimate.

Yet, that is almost all stopped, and that cries out for a solution. Now, if you were to poll the people of Idaho they'd probably not want to get rid of the Endangered Species Act, but they grow increasingly frustrated and angry when they see the Federal Government using it as a tool to shut them down and to shut the economic activity of a dominant public lands State down. Clearly, in the last 8 years that has been the message communicated, an unwillingness to put a management plan together, an unwillingness to de-list, as my colleague from Wyoming said with grizzly bear, which spills out of Yellowstone and into the north, the northeast toe of the Idaho boot.

Those are just a few. Then of course we have the Snake and the Columbia River listed species of salmon, and you had those in California in the Sacramento Delta country and all of that issue.

I have no questions for you. I only offer you that as some of the challenges. I think your early statement that you could see cooperating relationships develop with States—we should not use the Endangered Species Act as a tool to shut down human activity or to deny people the right to live in a State that they have chosen as their lifestyle. That's exactly what's happening in Idaho at this moment, and it shouldn't be allowed to happen.

At the same time, some of our colleagues who are east of the Mississippi in my opinion have a poor understanding of how the tool of the Endangered Species Act gets used, and of course therefore the public pressure for them is to preserve and not to balance or cooperate or do what I think you've suggested ought to be done in some of these areas, bring the States into some of these management plans so that we can develop cooperation.

Well, enough said. We'll look forward to getting you on the job so you can begin to work with us. I would hope that we could make some slight adjustments that allow some reality to the Endangered Species Act and not allow it to be continually used by some of our agencies as simply a tool to shut down human activity. I think that's the wrong approach.

Judge, thank you.

Mr. MANSON. Thank you, Senator. I have been on record supporting cooperation with the States. That'll be very important if I'm confirmed.

I must say, quite frankly with some embarrassment, that Idaho is the only State west of the Mississippi that I have not ever visited, and it sounds like you have an abundance of issues and an abundance of natural heritage there, and I look forward if I am confirmed to making an early trip to Idaho.

Senator CRAIG. Well, that one mistake you've made in your life we will want to eliminate, and do it very quickly, Judge. We'd love to have you come to Idaho and to visit with our State government and our Governor and look at some of these issues that we think cry out for cooperation. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you.

Judge Manson, thank you for being here. We will advise members that they will have until 5 o'clock this evening to file with the committee staff any additional questions they would like the nominee to respond to for the record, and the committee will stand in adjournment.

[Whereupon, at 10:18 a.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

Hon. JEFF BINGAMAN,
Chairman, Senate Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed you will find my response to the written question I received following my nomination hearing before the Senate Energy and Natural Resources Committee on Wednesday, October 3, 2001.

If I can be of further assistance, please let me know.

Sincerely,

CRAIG MANSON,
Assistant Secretary for Fish and Wildlife and Parks Designate.

[Enclosures]

RESPONSE TO QUESTION FROM SENATOR CANTWELL

Question. In testimony for the Senate Environment and Public Works Committee and Senate Energy and Natural Resources Committee, you highlighted your work in California and the use of habitat conservation plans (HCPs) to protect endangered species and their habitat. A number of studies have been done as to the effectiveness of HCPs and the results have been mixed. Numerous of prominent biologists, including Stanford University conservation biologist Dennis Murphy, have argued that some HCPs may be doing more harm than good, and have advocated for a moratorium on HCPs.

One HCP in my home state of Washington, located on 85,000 acres of Crown Pacific Ltd. timber lands in Skagit and Whatcom counties, proposed to exempt from the Endangered Species Act "take" provisions of 28 species of fish and wildlife including coho and sockeye salmon, bald and golden eagles, Townsend's big-eared bat, and the California wolverine. However, an analysis of the Pacific Crest Biodiversity Project, Seattle Audubon Society and Gifford Pinchot Task Force found that in this case the HCP did not apply the best available scientific information. For example, the HCP's discussion of fish habitat does not account for chemical pollution, detrimental changes to stream temperature, invertebrate food sources, or the timing and intensity of water flows that are caused by upslope logging and other practices.

Mr. Manson, as Assistant Secretary for Fish, Wildlife and Parks, how would you address these concerns with HCPs and how will you ensure that the federal government encourages priceless endangered species populations to actually recover rather than just preventing them from declining further?

Answer. Based upon my familiarity with Habitat Conservation Planning activities in California, I have found that the HCP process is particularly valuable because it enables States, local jurisdictions and private landowners to work cooperatively toward species conservation. If confirmed, I will work to ensure the best available scientific and commercial information is used in both the development and approval process for HCPs, and that the HCP process is conducted in an open and collaborative manner.

I am not familiar with the specific circumstances regarding the Crown Pacific HCP in Washington. If confirmed, I will look into that situation and report back to you.

As I testified in my appearance before the Committee, I firmly believe that the primary goal of the endangered species program must be the recovery of species.

While I am not yet familiar enough with the Fish and Wildlife Service's actual management of the program to provide specific steps I would initiate if confirmed, I assure you this will be my clear objective.

APPENDIX II

Additional Material Submitted for the Record

NORTHERN CALIFORNIA WATER ASSOCIATION,
Sacramento, CA, August 20, 2001.

Hon. JEFF BINGAMAN,
Chairman, Energy and Natural Resources Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN BINGAMAN: I am writing today to convey the Northern California Water Association's (NCWA) support for the appointment of Craig Manson to the position of Assistant Secretary of the Interior for Fish and Wildlife.

NCWA represents 68 water suppliers and individual farmers who collectively irrigate over 850,000 acres of fertile Northern California farmland. Several of our members also deliver water to state and federal wildlife refuges and a large portion of this land serves as important seasonal wetlands for migrating waterfowl, shorebirds and other wildlife.

Mr. Manson has an extensive background in resource management, including service as General Counsel for the California Department of Fish and Game. More significantly, I have personally known Mr. Manson for more than a decade. As a result, I wholeheartedly attest to his personal judgment and integrity, which will serve the Administration well. You can be sure that Mr. Manson's background and experience will be an asset to the Department of the Interior and to the people of the United States.

Once again, I would like to express our support for Mr. Manson's appointment.
Sincerely,

DAVID J. GUY,
Executive Director.

STATE WATER CONTRACTORS,
Sacramento, CA, August 23, 2001.

Hon. JEFF BINGAMAN,
Chair, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Subject: Support for confirmation of Mr. Harold Craig Manson as Assistant Secretary of the Interior for Fish and Wildlife and Parks.

DEAR SENATOR BINGAMAN: The State Water Contractors¹ strongly support the nomination of Mr. Harold Craig Manson as Assistant Secretary of the Interior for Fish and Wildlife and Parks. The State Water Contractors is an organization that represents 27 public agencies throughout California that have long-term contracts for water supply from the State Water Project. The State Water Project provides water supplies for 22 million Californians and irrigation supplies to one million acres of prime farmland.

Prior to his distinguished public service as Judge with the Superior Court of California, County of Sacramento, Mr. Manson spent seven years as General Counsel

¹Alameda County Flood Control & Water Conservation District, Zone 7; Alameda County Water District; Antelope Valley-East Kern Water Agency; Casitas Municipal Water District on behalf of the Ventura County Flood Control District; Castaic Lake Water Agency; Central Coast Water Authority on behalf of the Santa Barbara County FC&WCD; City of Yuba City; Coachella Valley Water District; County of Kings; Crestline-Lake Arrowhead Water Agency; Desert Water Agency; Dudley Ridge Water District; Empire-West Side Irrigation District; Kern County Water Agency; Littlerock Creek Irrigation District; The Metropolitan Water District of Southern California ("Metropolitan"); Mojave Water Agency; Napa County FC&WCD; Oak Flat Water District; Palmdale Water District; San Bernardino Valley Municipal Water District; San Gabriel Valley MWD; San Geronio Pass Water Agency; San Luis Obispo Co. FC&WCD; Santa Clara Valley Water District; Solano County Water Agency; and Tulare Lake Basin Water Storage District.

for the California Department of Fish and Game. Mr. Manson supervised the California Department of Fish and Game's team of 14 attorneys and support staff, oversaw environmental and other litigation in state and federal courts, drafted legislative proposals on natural resource issues, represented the California Department of Fish and Game before other state and federal administrative agencies and provided policy and legal advice to the Governor and state agencies on natural resource issues.

We believe Mr. Manson will focus on achieving objectives in a manner that reflects sensitivity to the environment and to the public we serve. His years of experience in the field of environmental law and his expertise in environmental law and regulatory issues, solution-oriented approach, leadership skills and dedication to public service make him a fine addition to the Department of the Interior.

I urge you to confirm his nomination.

Sincerely,

JOHN C. COBURN,
General Manager.

Sacramento, CA, August 29, 2001.

Hon. JAMES JEFFORDS,
Chair, Committee on Environment and Public Works, U.S. Senate, Dirksen Building, Washington, DC.

Hon. JEFF BINGAMAN,
Chair, Committee on Energy and Natural Resources, U.S. Senate, Hart Building, Washington, DC.

Re: Support for Confirmation of H. Craig Manson as Assistant Secretary of the Interior

DEAR CHAIRMEN BINGAMAN AND JEFFORDS: We urge you to support the nomination of Superior Court Judge, H. Craig Manson as Assistant Secretary of the Department of the Interior for Fish, Wildlife and Parks.

During his tenure as the first General Counsel for the California Department of Fish and Game from 1993 to 1998, Judge Manson consistently demonstrated an in-depth knowledge and understanding of the diverse and often complicated natural resource issues affecting California. In particular, his legal and policy expertise regarding federal and state Endangered Species Acts, wetlands, water law, the National Environmental Policy Act and California Environmental Quality Act, and other natural resource issues, helped ensure the long-term protection and enhancement of those important resources in California.

Judge Manson approaches all issues with a professional judicial demeanor, recommending decisions only upon the best scientific evidence, with absolute fairness and impartiality. His well-known reputation for thoughtfully listening to and giving consideration to constituencies on all sides of the issues has earned him great bipartisan respect over the years from a host of diverse interests.

With his deep understanding of so many of the highly-complex and diverse resource issues facing California and the Nation, and with no ties to any special interests, Judge Manson should be expected to make well-reasoned, prudent decisions as Assistant Secretary which will benefit the long-term protection, preservation and maintenance of our country's wildlife, parks and natural resources.

It is particularly important to have a Californian in a key Interior position, for at least two reasons. First, there is no greater proving ground in which to be exposed to the greatest diversity of natural resource issues than in the state of California with its unparalleled ecological diversity and substantial human population and resource development needs. Secondly, California, in many ways, is an excellent microcosm of many National issues that are to surface in the future.

Judge Manson's proven experience, remarkable depth of knowledge of natural resource issues, and pragmatic and balanced approach to decision-making, will greatly aid Department of the Interior policy formulation.

For all of these reasons, we urge you to endorse the nomination of H. Craig Manson, as Assistant Secretary of the Interior, and support his timely confirmation by the full U.S. Senate.

Sincerely,

ANGELO K. TSAKOPOULOS.
ELENI TSAKOPOULOS-KOUNALAKIS.

September 12, 2001.

Senator JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Bldg., Washington, DC.

Re: Confirmation of Judge H. Craig Manson

DEAR SENATOR BINGAMAN: This letter is sent to support the confirmation of Judge Craig Manson for Assistant Secretary of the Interior for Fish, Wildlife and Parks. We are attorneys who worked for Judge Manson for all or part of the four years he was the General Counsel for the California Department of Fish and Game (DFG). We commend him without reservation for this important office.

Judge Manson is a skilled and sensitive policy maker with a proven ability to balance the competing interests of environmental protection and development, commercial and recreational uses, and government regulation and individual rights. Judge Manson respected all of these interests and made sure that each had a voice in DFG's deliberations on important public policy matters. In his years at DFG, Judge Manson also showed an impressive command of state and federal environmental laws and gained a wealth of experience in their application.

Judge Manson has great integrity. Professionally and personally, he maintained the highest standard of honesty and professionalism during his tenure at DFG. And he held us to the same standard. Even when confronted with the volatile conflicts that often seem to pervade the stewardship of natural resources, Judge Manson maintained, and insisted that we maintain, a high level of professional courtesy and integrity. We believe that virtually all of those who dealt with Judge Manson would say he treated them with courtesy and respect even in the course of vigorous debate.

Finally, we believe Judge Manson's long record of public service shows a deep and unwavering commitment to education, good government, and legal services to the poor. Despite long and demanding days at DFG, he made time to teach evening courses at the University of the Pacific McGeorge School of Law. While in private practice and at DFG, he donated his time to a number of worthy causes. Much to his credit, Judge Manson also encouraged attorneys in his office to contribute their own time to legal services programs. "Service *pro bono publico* is a venerable tradition of our profession," he wrote in a 1996 memorandum on the subject.

For these reasons, we urge you to confirm Judge Manson as Assistant Secretary of the Interior. Judge Manson would be a tremendous addition to the Department of the Interior. He would bring insight and reason to the office. He would treat with respect everyone who walks through his office door and would apply the laws he is asked to administer fairly. We welcome the chance to work with him again on natural resource issues concerning California and the nation.

Ann S. Malcolm, J. Christopher Beale, Stephen E. Adams, Nancee Murray, Jennifer Decker, Joseph P. Milton.

PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY
Washington, DC, September 19, 2001.

Hon. JEFF BINGAMAN,
Committee on Energy and Natural Resources, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: Public Employees for Environmental Responsibility (PEER) opposes the nomination of H. Craig Manson for the position of Assistant Secretary of the Interior for Fish, Wildlife & Parks. PEER is a service organization representing thousands of federal and state employees within land management and wildlife protection agencies, including the U.S. Fish & Wildlife Service and the National Park Service—agencies that Mr. Manson would oversee if confirmed.

As Assistant Secretary of the Interior for Fish, Wildlife & Parks, Mr. Manson would be the key decision-maker on an array of natural resource decisions ranging from how to implement the Endangered Species Act to the direction of our National Wildlife Refuge System. The position also oversees more than 30,000 permanent employees and thousands more seasonal and volunteer employees.

Despite the importance of this position, Mr. Manson has spent very little of his career involved in natural resource or land management issues. The principal relevant qualification for this position is the approximately six years in which he served as Chief Counsel to the California Department of Fish & Game (DFG).

For that reason, more than passing scrutiny of what happened at DFG during his tenure is appropriate. From accounts collected from scores of current and former DFG employees who have served in that agency with Mr. Manson, a disturbing pat-

tern emerges. According to these current and former colleagues, Mr. Manson's principal role within the agency was to aid politically-connected developers and other permittees, to frustrate strict enforcement of resource protection laws and to work, usually behind the scenes, to weaken interpretations of key statutes and policies.

One case epitomizes Mr. Manson's tenure at DFG—that of a whistleblower named Jerry Mensch. Mr. Mensch, a supervising biologist in the DFG Regional Office responsible for the Sacramento River Delta, received a direct order from the DFG Deputy Regional Director, Jim Messersmith, to sign a permit for a Caltrans (state transportation department) project involving construction on a delta island of a pier with creosote-coated pilings. Despite Mr. Mensch's protest that the permit violated specific prohibitions against putting creosote or other coal tar products into state waters—prohibitions contained in both the state Health & Safety and Fish & Game Codes—Mr. Messersmith insisted, intimating that the order emanated from above his level (on the second tier of hierarchy under the DFG Director). Mr. Mensch signed the illegal permit but then filed a criminal complaint with the Solano County District Attorney who in turn filed criminal charges against Mr. Messersmith. Mr. Messersmith pled no contest to two misdemeanors and promptly retired.

Mr. Mensch was removed from his position and transferred to a newly created position that had no discernible duties. Mr. Mensch brought whistleblower complaints against DFG and top agency officials, including Mr. Manson. The State of California settled the case for an undisclosed sum and Mr. Mensch still works at DFG.

As Chief Counsel for DFG, Mr. Manson—

- Was involved in the use of tax dollars to hire a private law firm to defend Mr. Messersmith from the criminal charges;
- Participated in decisions to punitively remove Mr. Mensch from his position;
- Hid behind his role as Chief Counsel refusing to answer questions put to him either by the State Legislature's investigating committees or Mr. Mensch's attorney, repeatedly invoking the attorney-client privilege to queries about actions within DFG leading up to the illegal permit issuance.

The State of California settled the civil suit brought by Mr. Mensch, paying him an undisclosed sum and ensuring his continued employment by DFG where Mr. Mensch still works.

While this episode involving Mr. Mensch played out in a public arena, numerous other similar incidents did not draw attention of the State Legislature or end up in superior court. Nonetheless, the nature of DFG actions relative to enforcement of resource protection laws and its own employees who tried to enforce these laws was, by virtually all accounts, similarly dismal during Mr. Manson's time there.

It is precisely because Mr. Manson's qualifications for the position of Assistant Secretary of the Interior for Fish, Wildlife & Parks are so thin that whatever presumption owed to him as the President's selection is commensurately thin. The troubling questions raised by his tenure at DFG argue strongly against this nomination.

Sincerely,

JEFFREY RUCH,
Executive Director.

PS. Enclosed are a short list of questions we respectfully suggest that you ask this nominee to answer before making a decision on his confirmation.

SUGGESTED QUESTIONS FOR H. CRAIG MANSON, NOMINEE FOR ASSISTANT SECRETARY OF INTERIOR FOR FISH, WILDLIFE AND PARKS

On March 3, 1997, "all managers and supervisors" within the California Department of Fish & Game (DFG) received a directive about "incompatible activities" containing the following prohibition:

"Employees may not engage in any outside employment, activity or enterprise (including teaching, lecturing, or writing) with or without compensation which . . . reflects discredit upon, or causes unfavorable criticism of, State government or the Department."

A. As Chief Counsel of DFG at this time, did you review, approve or authorize this admonition? If not, why would you not be aware of such a directive?

B. Do you believe that this admonition is appropriate and consistent with the constitutional rights of state employees?

C. If confirmed as Assistant Secretary of the Interior for Fish, Wildlife & Parks, would you consider issuing a similar directive?

D. What is your view of the proper role of employee free speech within a federal agency?

News articles reflect your involvement in a DFG whistleblower case concerning Jerry Mensch, a supervising biologist give a direct order to approve an illegal per-

mit. In addition, Mr. Mensch filed civil suit against a number of individuals, including you. Reportedly, that suit was settled out of court.

E. What was your role in all of the circumstances leading up to the civil suit filed by Mr. Mensch?

F. In his civil suit what did Mr. Mensch allege that you had done?

G. Did you participate in the settlement discussions to resolve this case?

H. What is your view today of the merits of that case?

I. Is Mr. Mensch still employed by DFG? If so, in what position?

Given your involvement in a whistleblower case in which it had been alleged that you were a party to illegal retaliation, what steps would you take as Assistant Secretary of the Interior for Fish, Wildlife & Parks to alleviate employee concerns that you might retaliate against them for making protected disclosures under the Whistleblower Protection Act?

Near the end of your tenure at DFG in 1998, an organization called Public Employees for Environmental Responsibility (PEER) surveyed all department staff. Nearly one-third of all DFG employees returned the PEER questionnaires. Some salient responses included:

11. I fear being rebuked for advocating aggressive environmental enforcement. 34% agreed with this statement; 37% disagreed and 29% declined to express an opinion.

12. In the past two years I have been directed to ignore an environmental law, regulation or violation.

20% said yes; 55% said no and 25% expressed no opinion.

13. Some permit applicants/project sponsors receive preferential treatment after first contacting the Resources Agency or the Governor's Office.

55% agreed; only 3% disagreed and 42% registered no opinion.

14. [For law enforcement employees only] In the past two years, DFG management has inappropriately intervened in a criminal investigation.

35% said yes; 40% said no with 25% saying no opinion.

A. Were you aware of the PEER survey and its results?

B. To your knowledge, did you, as Chief Counsel, or did DFG management attempt to investigate the underlying concerns raised by employees in this survey? If so, what was done? If not, why not?

C. Do these survey results trouble you now?

D. What steps would you, if confirmed as Assistant Secretary of the Interior for Fish, Wildlife & Parks, take to ensure that federal resource enforcement staff under your purview do not express similar concerns?

During your tenure as Chief Counsel of DFG, please describe one instance in which you personally took steps to ensure a higher level of protection for natural resources within the State of California.

STATE OF CALIFORNIA—THE RESOURCES AGENCY,
DEPARTMENT OF FISH AND GAME,
Sacramento, CA, September 20, 2001.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR BINGAMAN: I am writing in support of the nomination of Judge H. Craig Manson as Assistant Secretary of the U.S. Department of the Interior for Fish, Wildlife and Parks.

Judge Manson and I have known and worked with one another for the past eight years. When he was serving as General Counsel of the California Department of Fish and Game and I was Executive Officer of the California State Lands Commission, we worked together on a variety of natural resource and public lands issues in California. Judge Manson proved himself a dedicated and skilled steward of public resources in this state, and his contributions as general counsel have lasted long past his tenure at the California Department of Fish and Game.

I am confident Judge Manson will be a valuable asset at the U.S. Department of the Interior, and I look forward to working with him again on important public resource issues. I urge you to confirm Judge Manson as Assistant Secretary of the Interior.

Sincerely,

ROBERT C. HIGHT,
Director.

INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES,
Washington, DC, October 1, 2001.

Hon. JEFF BINGAMAN,
Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

Hon. FRANK MURKOWSKI,
Ranking Member, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BINGAMAN AND SENATOR MURKOWSKI: I write to share with you the strong support of the Association for the nomination of Harold Craig Manson to be Assistant Secretary, Fish, Wildlife and Parks, U.S. Department of the Interior. As you know, Judge Manson was General Counsel for the California Department of Fish and Game, during which time we had the opportunity to work with Craig on many issues of vital interest to the State Fish and Wildlife agencies collectively. Judge Manson has extensive knowledge of and experience with fish and wildlife conservation issues, in particular as they relate to the states' authorities and responsibilities and with respect to the relationship between the states and the federal government.

Judge Manson has demonstrated his commitment to both our natural resources and our citizens through his years of public service in California. He is a thoughtful, creative and deliberate professional who seeks to solve problems in ways that advance both conservation and the needs of our citizens and he has the respect of his colleagues in this field of endeavor. Judge Manson has the Association's strong and enthusiastic support.

This Nation, our natural resources, and our citizens would be well served by having Judge Manson as Assistant Secretary of Fish, Wildlife and Parks and the Association urges expeditious Committee action reporting his nomination to the floor for consideration by the Senate.

Thank you for your attention to this important nomination.

Sincerely,

R. MAX PETERSON,
Executive Vice President.

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